# EXECUTIVE SUMMARY - ENFORCEMENT MATTER DOCKET NO.: 2007-0978-PST-E TCEQ ID: RN101880219 CASE NO.: 33879 RESPONDENT NAME: JAMES J. FLANAGAN SHIPPING CORPORATION DBA JAMES J. FLANAGAN STEVEDORES

ORDER TYPE:							
X 1660 AGREED ORDER	FINDINGS AGREED ORDER	FINDINGS ORDER FOLLOWING SOAH HEARING					
FINDINGS DEFAULT ORDER	_SHUTDOWN ORDER	IMMINENT AND SUBSTANTIAL ENDANGERMENT ORDER					
AMENDED ORDER	NDED ORDEREMERGENCY ORDER						
CASE TYPE:							
AIR	MULTI-MEDIA (check all that apply)	INDUSTRIAL HAZARDOUS WASTE					
PUBLIC WATER SUPPLY	X PETROLEUM STORAGE TANKS	OCCUPATIONAL CERTIFICATION					
WATER QUALITY	SEWAGE SLUDGE	UNDERGROUND INJECTION CONTROL					
MUNICIPAL SOLID WASTE	RADIOACTIVE WASTE	DRY CLEANER REGISTRATION					
TYPE OF OPERATION: shipping corporal SMALL BUSINESS: Yes X OTHER SIGNIFICANT MATTERS: Then this facility location.	No re are no complaints. There is no record of addi	itional pending enforcement actions regarding					
INTERESTED PARTIES: No one other that	an the ED and the Respondent expressed an inte	erest in this matter.					
COMMENTS RECEIVED: The Texas Reg	ister comment period expired July 8, 2009. No	o comments were received.					
Ms. Lena Rober TCEQ Enforcement Coordinator: TCEQ Regional Contact: Ms. Nic Respondent: Mr. James Flanagan,	ron, Litigation Division, MC 175, (512) 239-02 ts, Litigation Division, MC 175, (512) 239-001 Mr. Tom Jecha, Waste Enforcement Section, cole Bealle, Houston Regional Office, MC R-12 III, Vice-President, 1111 E. Navigation Blvd., s Davin, Julian & Seele, P.C., 11767 Katy Frw.	9 , MC 128, (512) 239-2576 2, (713) 767-3623 Houston, Texas, 77012					

# RESPONDENT NAME: JAMES J. FLANAGAN SHIPPING CORORPATION DBA JAMES J. FLANAGAN STEVEDORES

**DOCKET NO.: 2007-0978-PST-E** 

VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
Type of Investigation:	Initial Calculated Penalty: \$8,000	Ordering Provisions:
Complaint X Routine Enforcement Follow-up Records Review  Date of Complaint Relating to this Case: None  Date of Investigation Relating to this Case: May 16, 2007  Date of NOE Relating to this Case: August 20, 2007	Total Assessed: \$8,000  Total Deferred: \$0  Expedited Order Financial Inability to Pay SEP Conditional Offset  Total Paid/Due to General Revenue: \$410/\$7,590  The Respondent paid \$410 of the administrative penalty. The remaining amount of \$7,590 shall be payable in 23 monthly	The Respondent shall undertake the following technical requirements:  1. Immediately cease accepting fuel until such time as a valid delivery certificate is obtained from the TCEQ.  2. Within 30 days:  a. Install and implement a release detection method for the USTs;  b. Obtain acceptable financial
Background Facts: The EDPRP was filed January 3, 2008. The Respondent filed an answer and the case was referred to SOAH. A signed Agreed Order was received on April 13, 2009.  Current Compliance Status: The Respondent is not yet in compliance. The Respondent does not have a delivery certificate.	payments of \$330 each.  Site Compliance History Classification  High X Average Poor  Person Compliance History Classification  High X Average Poor  Major Source: X Yes No  Applicable Penalty Policy: September 2002	assurance for taking corrective action and for compensating third parties for both bodily injury and property damage caused by accidental releases arising from the operation of petroleum USTs; and  c. Begin maintaining all UST records.  3. Within 45 days, submit written certification demonstrating compliance. with these Ordering Provisions.
PST:  1. Failed to provide a method of release detection capable of detecting a release from any portion of the UST system which contained regulated substances [30 Tex. ADMIN. CODE § 334.50(a)(1)(A) and Tex. WATER CODE § 26.3475(c)(1)].		with these Ordering Provisions.
2. Failed to demonstrate acceptable financial assurance for taking corrective action and for compensating third parties for bodily injury and property damage caused by accidental releases arising from the operation of petroleum USTs [30 Tex. ADMIN. CODE § 37.815(a) and (b)].		
3. Failed to have the UST records maintained, readily accessible, and make them immediately available for inspection upon request by agency personnel [30 Tex. ADMIN. CODE § 334.10(b)].		
4. Failed to submit the required UST registration and self-certification form to the agency [30 Tex. ADMIN. CODE §§ 334.8(c)(4)(A)(vi) and 334.7(d)(3)].		
5. Failed to make available to a common carrier a valid, current TCEQ delivery certificate before accepting delivery of a regulated substance into the USTs [30 Tex. Admin. Code § 334.8(c)(5)(A)(i)and Tex. WATER CODE § 26.3467(a)].		

Pur ///	Policy Revision 2 (Sep		nalty	Calculatio	n Work	sheet (P		ision May 25, 2007
TCEQ DATES	Assigned PCW	5-Jun-2007 24-Oct-2007	Screenir	ng 12-Jun-2007	EPA Due			
F	NDENT/FACILITY Respondent Reg. Ent. Ref. No. cility/Site Region	James J. Flanag RN101880219	an Shipp	ing Corporation di		lanagan Steve		
<b>N</b>	NFORMATION Enf./Case ID No. Docket No. Media Program(s) Multi-Media Admin. Penalty \$ I	2007-0978-PST- Petroleum Stora		Maximum				1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1
TOTAL	BASE PENAL	TY (Sum of v		alty Calcula base penaltic	Control of the second	tion	Subtotal 1	\$8,000
	STMENTS (+/-) Subtotals 2-7 are obtai Compliance Hist	ned by multiplying the	Total Base	y a light on solving to leghts properly where the experience will be a	y the indicated per Enhancement		otals 2, 3, & 7	\$0
	Notes	N	lo adjustr	ment due to comp	liance history			
	Culpability Notes	No The res	pondent	does not meet the	Enhancement e culpability cri	iteria.	Subtotal 4	\$0
	Good Faith Effor Extraordinary Ordinary N/A	Before NOV	nark with x	PRP/Settlement Offer		iteria.	Subtotal 5	; <b>\$0</b>
	Approx.	Total EB Amounts Cost of Compliance	\$1,530 \$3,100		Enhancement*		Subtotal 6	\$0
SUM	OF SUBTOTAL	S 1-7					Final Subtotal	\$8,000
	R FACTORS As or enhances the Final S				y; e.g30 for -309	<b>%.)</b>	Adjustment	\$0
	Notes					Final Pe	nalty Amount	\$8,000
STATU	JTORY LIMIT A	ADJUSTMENT				Final Asse	essed Penalty	\$8,000
DEFEI Reduces	RRAL the Final Assessed Per	alty by the indicted pe	rcentage. (	Enter number only; e.ç	0% g. 20 for 20% redu	Reduction uction.)	Adjustment	\$0
	Notes			ffered for non-exp				To Annual Control of the Control of
	er a vertice of the control of the c	Learner Land Control	on and the	with him seathful and in the con-	contitus per ut., yetser	atanarasa a a nara sy	managaran a a	

Screer	ning Date 12-Jun-2007 Docket No. 2007-0978-PST-E		,	PCW
Res	spondent James J. Flanagan Shipping Corporation dba James J. F	Policy R	Revision 2 (Sep	tember 2002
Ca	se ID No. 33879	ļ	PCW Revision	May 25, 200
g. Ent. Refer	ence No. RN101880219			
Media	[Statute] Petroleum Storage Tank			
Enf. Cod	ordinator Philip DeFrancesco			
	Compliance History Worksheet			
npliance History Component	/ Site Enhancement (Subtotal 2)	inter Number Here	Adjust.	
NOVs	Written NOVs with same or similar violations as those in the current enforcement action (number of NOVs meeting criteria)	0	0%	
	Other written NOVs	0	0%	
	Any agreed final enforcement orders containing a denial of liability (number of orders meeting criteria)	0	0%	
Orders	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%	
Judgments	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (number of judgements or consent decrees meeting criteria)	0	0%	
and Consent Decrees	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%	
Convictions	Any criminal convictions of this state or the federal government (number of counts)	0	0%	
Emissions	Chronic excessive emissions events (number of events)	0	0%	
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which notices were submitted)	0	0%	
d to A	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which violations were disclosed)	0	0%	49 .
	Pleas	e Enter Yes or No		41.4
	Environmental management systems in place for one year or more	No	0%	
Other	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%	
Olilei	Participation in a voluntary pollution reduction program	No	0%	
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%	

		Adjustment Percentage (Subtotal 2)	0%
>> Repeat Violator (Sul	btotal 3)		HSAN
No	*	Adjustment Percentage (Subtotal 3)	0%
>> Compliance History	Person Cl	assification (Subtotal 7)	
Average Pe	erformer	Adjustment Percentage (Subtotal 7)	0%
>> Compliance History	Summary		
Compliance History Notes		No adjustment due to compliance history	-
ı		Total Adjustment Percentage (Subtotals 2. 3. & 7)	0%

Screening Da	<b>te</b> 12-Jun-2007	Docket No. 2007-0978-PST-E	PCW
Responde	n <b>t</b> James J. Fla	nagan Shipping Corporation dba James J. Flanagan Policy	Revision 2 (September 2002)
Case ID N	<b>o.</b> 33879		PCW Revision May 25, 2007
Reg. Ent. Reference N	o. RN10188021	9	
Media [Statut	e] Petroleum St	torage Tank	
Enf. Coordinat	or Philip DeFrar	ncesco	
Violation Numb	er 1		<b>=</b>
Rule Cite	30 Tex.	Admin. Code § 334.50(a)(1)(A) and Tex. Water Code § 26.3475(c)(1)	
Violation Descripti		vide a method of release detection capable of detecting a release from an ortion of the UST system which contained regulated substances.	<u> </u>
		Base Penalty	\$10,000
>> Environmental, Propert	Martin Control of the	Health Matrix  Harm  Moderate Minor	The state of the s
OR Acti		Moderate	
Potent	ial x	Percent 25%	
>>Programmatic Matrix			
Falsification	n Major	Moderate Minor	
		Percent 0%	
		T system for releases could expose human health or the environment to leed levels that are protective of human health or environmental receptors as a result of the violation.	n d
		Adjustment \$7,500	
			\$2,500
Violation Events			Ψ2,300
, Agracian per Col. Territy Col. Crimade Period Archive. Perford Lander and Station and St	San Andrews and Technology of		9
Number of	Violation Events	1 Number of violation days	
, mark only or , with an x	daily monthly e quarterly semiannual annual single event	X Violation Base Penalty	\$2,500
One qua		commended based on documentation of the violation during the May 16, nvestigation date to the June 12, 2007 screening date.	
Economic Benefit (EB) for	his violation	Statutory Limit Test	
Estima	ted EB Amount	\$50 Violation Final Penalty Total	\$2,500
		This violation Final Assessed Penalty (adjusted for limits)	\$2,500
		This folder in the resessed is tracky (adjusted for littles)	Ψ2,000

하다 사람들이 부끄러워 살으면 살으면 그 그 모든	i E	conomic	Benefit W	orks	sheet		
Respondent	l James J. Flana	gan Shipping Cor	poration dba Jame	s J. Flar	nagan Stevedores	and the state of t	
Case ID No.		3 G pp g	,		<b>3</b>		
Reg. Ent. Reference No.							
		Taal					Years of
	Petroleum Stor	age rank				Percent Interest	Depreciation
Violation No	. 1	er og godene, spå jordery grynge.	sandawa ne nwijel s		e in lead group stylend stylen. St		
						5.0	15
가는 사이에 가는 사람들은 모바다에게 되었다. 그 사람이 하는 사람들은 사람들은 소리를 보았다면 하는 것이 되었다.	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
Item Description							
item pescription	I NO COMMISSION	Add Leady To Londinas			estilita estituate tuk	Lawred Facility is widther.	78 D
. A SA CONTRACTOR BUILDING CONTRACTOR	and the state of	المناسخين العالم المري المهامين. العرفية إلى إلى إلى يوارية المريد	amarga i tili ki				e
Delayed Costs Equipment		1	1	7 0.0	\$0	\$0	\$0
Equipment Buildings				0.0	\$0	\$0	\$0
Other (as needed)		<u> </u>		0.0	\$0	\$0	\$0
Engineering/construction				0.0	\$0	\$0	\$0
Land				0.0	\$0	AMM in/a	\$0
Record Keeping System				0.0	\$0	n/a	\$0
Training/Sampling				0.0	\$0	antalasn/aid	\$0
Remediation/Disposal				0.0	\$0		\$0
Permit Costs				0.0	\$0	n/all.cl	\$0
					Ψ.		
Other (as needed)	\$1,500	16-May-2007	16-Jan-2008	0.7	\$50	n/a //	\$50
Notes for DELAYED costs	The estim	nated cost to provide investigation	de a release detec date and the final	0.7 tion met date is	\$50 hod for the UST sy the estimated date	/stem. The date requ of compliance.	\$50 ired is the
Notes for DELAYED costs  Avoided Costs	The estim	nated cost to provide investigation	de a release detec date and the final	0.7 tion met date is	\$50 hod for the UST sy the estimated date item (except for	vstem. The date required of compliance.	\$50 ired is the
Notes for DELAYED costs  Avoided Costs  Disposal	The estim	nated cost to provide investigation	de a release detec date and the final	tion met date is entering	\$50  hod for the UST sy the estimated date  item (except for a	vstem. The date required of compliance.  one-time avoided compliance.	\$50 ired is the osts)
Notes for DELAYED costs  Avoided Costs  Disposal  Personnel	The estim	nated cost to provide investigation	de a release detec date and the final	tion met date is entering	\$50  hod for the UST sy the estimated date  item (except for a	vstem. The date required of compliance.  one-time avoided compliance.	\$50 ired is the  osts) \$0 \$0
Notes for DELAYED costs  Avoided Costs  Disposal  Personnel  Inspection/Reporting/Sampling	The estim	nated cost to provide investigation	de a release detec date and the final	tion met date is entering 0.0 0.0 0.0	\$50  hod for the UST sythe estimated date  item (except for a \$0 \$0 \$0	vstem. The date required of compliance.  one-time avoided compliance.  \$0 \$0 \$0 \$0	\$50 ired is the  osts)  \$0 \$0 \$0
Notes for DELAYED costs  Avoided Costs Disposal Personnel Inspection/Reporting/Sampling Supplies/equipment	The estim	nated cost to provide investigation	de a release detec date and the final	tion met date is entering 0.0 0.0 0.0 0.0	\$50  hod for the UST sy the estimated date  item (except for or so) \$0 \$0 \$0 \$0	vstem. The date required of compliance.  one-time avoided city of the state of the	\$50 ired is the  osts) \$0 \$0 \$0 \$0 \$0 \$0
Notes for DELAYED costs  Avoided Costs Disposal Personnel Inspection/Reporting/Sampling Supplies/equipment Financial Assurance [2]	The estim	nated cost to provide investigation	de a release detec date and the final	0.7 tion met date is tentering 0.0 0.0 0.0 0.0 0.0 0.0	\$50  hod for the UST sy the estimated date  item (except for some some some some some some some some	vstem. The date required of compliance.  one-time avoided compliance.  \$0 \$0 \$0 \$0	\$50 ired is the  Dists) \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0
Notes for DELAYED costs  Avoided Costs  Disposal  Personnel Inspection/Reporting/Sampling  Supplies/equipment  Financial Assurance [2]  ONE-TIME avoided costs [3]	The estim	nated cost to provide investigation	de a release detec date and the final	tion met date is entering 0.0 0.0 0.0 0.0	\$50  hod for the UST sy the estimated date  item (except for or so) \$0 \$0 \$0 \$0	vstem. The date required of compliance.  one-time avoided compliance so	\$50 ired is the  osts) \$0 \$0 \$0 \$0 \$0 \$0
Notes for DELAYED costs  Avoided Costs Disposal Personnel Inspection/Reporting/Sampling Supplies/equipment Financial Assurance [2]	The estim	nated cost to provide investigation	de a release detec date and the final	0.7 tion met date is sentering 0.0 0.0 0.0 0.0 0.0 0.0 0.0 0.0	hod for the UST sy the estimated date item (except for or \$0 \$0 \$0 \$0 \$0	vstem. The date required of compliance.  one-time avoided compliance of the solution of the so	\$50 ired is the \$0 \$0 \$0 \$0 \$0 \$0 \$0
Notes for DELAYED costs  Avoided Costs  Disposal  Personnel Inspection/Reporting/Sampling  Supplies/equipment  Financial Assurance [2]  ONE-TIME avoided costs [3]	The estim	nated cost to provide investigation	de a release detec date and the final	0.7 tion met date is entering 0.0 0.0 0.0 0.0 0.0 0.0 0.0 0.0 0.0	hod for the UST sy the estimated date item (except for or \$0 \$0 \$0 \$0 \$0	vstem. The date required of compliance.  one-time avoided compliance of the solution of the so	\$50 ired is the \$0 \$0 \$0 \$0 \$0 \$0 \$0
Notes for DELAYED costs  Avoided Costs Disposal Personnel Inspection/Reporting/Sampling Supplies/equipment Financial Assurance [2] ONE-TIME avoided costs [3]	The estim	nated cost to provide investigation	de a release detec date and the final	0.7 tion met date is sentering 0.0 0.0 0.0 0.0 0.0 0.0 0.0 0.0	hod for the UST sy the estimated date item (except for or \$0 \$0 \$0 \$0 \$0	vstem. The date required of compliance.  one-time avoided compliance of the solution of the so	\$50 ired is the \$0 \$0 \$0 \$0 \$0 \$0 \$0
Avoided Costs  Avoided Costs Disposal Personnel Inspection/Reporting/Sampling Supplies/equipment Financial Assurance [2] ONE-TIME avoided costs [3] Other (as needed)	The estim	nated cost to provide investigation	de a release detec date and the final	0.7 tion met date is entering 0.0 0.0 0.0 0.0 0.0 0.0 0.0 0.0 0.0	hod for the UST sy the estimated date item (except for or \$0 \$0 \$0 \$0 \$0	vstem. The date required of compliance.  one-time avoided compliance of the solution of the so	\$50 ired is the \$0 \$0 \$0 \$0 \$0 \$0 \$0
Avoided Costs  Avoided Costs Disposal Personnel Inspection/Reporting/Sampling Supplies/equipment Financial Assurance [2] ONE-TIME avoided costs [3] Other (as needed)	The estim	ated cost to provide investigation	de a release detec date and the final	0.7 tion met date is entering 0.0 0.0 0.0 0.0 0.0 0.0 0.0 0.0 0.0	hod for the UST sy the estimated date item (except for or \$0 \$0 \$0 \$0 \$0	vstem. The date required of compliance.  one-time avoided compliance of the solution of the so	\$50 ired is the osts) \$0 \$0 \$0 \$0 \$0 \$0
Avoided Costs  Avoided Costs Disposal Personnel Inspection/Reporting/Sampling Supplies/equipment Financial Assurance [2] ONE-TIME avoided costs [3] Other (as needed)	The estim	nated cost to provide investigation	de a release detec date and the final led costs before e	0.7 tion met date is entering 0.0 0.0 0.0 0.0 0.0 0.0 0.0 0.0 0.0	hod for the UST sy the estimated date item (except for or \$0 \$0 \$0 \$0 \$0	vstem. The date required of compliance.  one-time avoided compliance of the solution of the so	\$50 ired is the osts) \$0 \$0 \$0 \$0 \$0 \$0

Screening Date	12-Jun-2007	Doc	ket No. 2007-0978-PST-E		PCW
Respondent	James J. Flanagar	Shipping Corporation dba	James J. Flanagan (	Policy Re	vision 2 (September 2002)
Case ID No.	33879			PC	W Revision May 25, 2007
Reg. Ent. Reference No.					
	Petroleum Storage				
Enf. Coordinator		)			
Violation Number					
Rule Cite(s)		30 Tex. Admin. Code	§ 37.815(a) and (b)		
Violation Description	compensating this		surance for taking corrective action of property damage caused by a caration of petroleum USTs.		,
			Base	e Penalty[	\$10,000
>> Environmental, Property a	and Human Hea	Ith Matrix			
The state of the s	H	arm	iset Carlos (and an amhair e an air 19 an an an an an amhair an bhailt an bhainn bhailt bhaill bhaille bhaille Ta ann an a		
Release		derate Minor			
OR Actual Potential			Percent 0%		
>>Programmatic Matrix Falsification	Major Mo	derate Minor			
Talameaton	x	delute immer	Percent 10%		
	JL L		<u> </u>		
Matrix Notes	10	0% of the rule requirement	was not met.		4.
[1] [1] [1] [1] [1] [1] [1] [1] [1] [1] [1]			Adjustment	\$9,000	
Village 19 to 50 10 to the mean of College Street Street College Street Street College Street Street Street College Street Stree	Orlinad Pelit San Al Mark aladik 2000 a 200 melitatin 1800 200 - 1	and the first the state of the	This allows and an extension of the common o		
· · ·			•	_	\$1,000
Violation Events					
Number of Vi	olation Events	2	365 Number of violation day	rs	
Nambor și Vi	5.0.1017 2 V 5.110 [			-	
	daily		,		
	monthly				
mark only one	quarterly		Violation Base	e Penaity _	\$2,000
with an x	semiannual annual	<del> </del>			
	single event	X			
			X 4 (0)		
	Two single even	ts are recommended for the	e two USTs at the Facility.		
Economic Benefit (EB) for th	is violation		Statutory Limit Tes	; <b>t</b>	
Eat!	d EB Amount	\$1,365	Violation Final Pena	alty Total	\$2,000
Estimate	u ED AIIIOURIL	φ1,303	VIOIALIOII FIIIAI PENA	anty rotai	φ2,000
\$8.46   \$0.000   \$0.000   \$1.000   \$0.000   \$1.0		This violation Fina	al Assessed Penalty (adjusted fo	or limits)	\$2,000

Media	RN101880219						~~~~
to the control of the	Petroleum Stor	age Tank				Percent Interest	Years of
Violation No	. 2				The same against the passes that the same		Depreciation
						5.0	15
	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
Item Description	No commas or \$						
Delayed Costs			e wysteria.		MIDS PERIOD		
Equipment				0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0
Engineering/construction				0.0	\$0	\$0	\$0
Land				0.0	\$0	Maria (N. 3	\$0
Record Keeping System				0.0	\$0	n/a.ciss c	\$0
Training/Sampling				0.0	\$0	in/all sizes	\$0
Remediation/Disposal				0.0	\$0	: in/a	\$0
Permit Costs Other (as needed)				0.0	\$0 \$0	n/a n/a	\$0 \$0
Notes for DELAYED costs						- 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1	
Avoided Costs	ANN	UALIZE [1] avoid	ed costs before e	nterina i	tem (except for	one-time avoided c	osts)
Disposal				0.0	\$0	\$0	\$0
Personnel	ļ			0.0	\$0	\$0	\$0
				0.0	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.0	\$0	\$0	\$0
Inspection/Reporting/Sampling Supplies/equipment		16-May-2006	16-May-2007	1.0	\$65	\$1,300	\$1,365
•	\$1,300			0.0	\$0	\$0	\$0
Supplies/equipment	\$1,300						<b>PO</b>
Supplies/equipment Financial Assurance [2]	\$1,300			0.0	\$0	\$0	\$0

Screening Date	12-Jun-2007	Docket	No. 2007-0978-PST-E	PCW
Respondent	James J. Flanagan Shippir	ng Corporation dba Jam	nes J. Flanagan {	Policy Revision 2 (September 2002)
Case ID No.	33879			PCW Revision May 25, 2007
Reg. Ent. Reference No.	RN101880219			
Media [Statute]	Petroleum Storage Tank			
Enf. Coordinator	Philip DeFrancesco			
Violation Number	3			
Rule Cite(s)		30 Tex. Admin. Code	§ 334.10(b)	
Violation Description		ST records maintained, r	readily accessible, and make the request by agency personnel.	em Penalty \$10,000
>> Environmental, Property a	Harm	- HARACA AMERICA A ACCORDING TO THE STATE OF		
Release OR Actual Potential		Minor	Percent 0%	
>>Programmatic Matrix Falsification	Major Moderate	Minor	Percent 10%	
Matrix Notes	100% of th	ne rule requirement was	not met.	٨
		THE STATE OF THE STATE OF	Adjustment	\$9,000
(2) 1. 1. 1. 1. 1. 1. 1. 1. 1. 1. 1. 1. 1.	di na Lipania. PE a selesa La sa malen Minde (mil			
	*			\$1,000
Violation Events				
Number of Vio	lation Events 1	27	Number of violation days	
mark only one with an x	daily monthly quarterly semiannual annual single event x		Violation Base F	Penalty \$1,000
One single e	event is recommended base	ed on documentation of investigation.	the violation during the May 16,	2007
Economic Benefit (EB) for thi			Statutory Limit Test	
Estimated	EB Amount	\$3	Violation Final Penalt	y Total \$1,000
		This violation Final A	ssessed Penalty (adjusted for	limits) \$1,000

	Ε	conomic	Benefit V	Vork:	sheet		
Pernandent	Seath of a set of	gan Shipping Corp	da de livi e i i e e		and the market of the state of		
Case ID No.		igan ompping oorp	oralion aba bans	30 0 101	lagan otoroacios		
Reg. Ent. Reference No.						The state of the state of the state of	Years of
- 1 - 1 - 1 - 4 - 2 - 1 - 1 - 1 - 1 - 1 - 1 - 1 - 1 - 1	Petroleum Stor	age Lank				Percent Interest	1
Violation No.	3		r managan mengangan kecamatan kecamatan kecamatan kecamatan kecamatan kecamatan kecamatan kecamatan kecamatan		The second second second		Depreciation
[일일 마다 : [1] [1] [1] [1] [1] [1] [1] [1] [1] [1]	and the second					5,0	15
하이노를 잘 여왕됐다. 이 모이 성고	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
Item Description				2 N STE			
item Description	No commas or \$		lili disiri. Tabayat		e half the test been been	washing field for the	
Delayed Costs			grigi ekspriktaven zile	4.7	an samang madigas		talia e Mala
Delayed Costs Equipment		1		0.0	T \$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0
Engineering/construction				0.0	\$0 .	\$0	\$0
Land				0.0	\$0	naminis n/a	\$0
Record Keeping System	\$100	16-May-2007	16-Jan-2008	0.7	\$3	in/attents	\$3
Training/Sampling				0.0	\$0	n/asiasiasi	\$0
Remediation/Disposal				0.0	\$0	n/a	\$0
Permit Costs				0,0	\$0	n/a	- \$0
Other (as needed)				0.0	\$0	n/a	\$0
Notes for DELAYED costs			estimate	d date of	compliance.	tion date and the fina	
Avoided Costs	ANN	IUALIZE [1] avoide	ed costs before			one-time avoided c	
Disposal				0.0	\$0	\$0 \$0	\$0
Personnel				0.0	\$0	7-	\$0
Inspection/Reporting/Sampling				0.0	\$0	\$0 \$0	\$0
Supplies/equipment		10.00		0.0	\$0 \$0	\$0	\$0 \$0
Financial Assurance [2]				0.0	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.0	\$0	\$0	\$0
Other (as needed)				10.0	1 90	1 90 1	. 50
							j
Notes for AVOIDED costs							
				,			1
'	i i	<u> Taragan Marian Barangan Bar</u>		·		• •	
****					9.7		
•							
Approx. Cost of Compliance		" \$100			TOTAL		\$3

Screening Date	12-Jun-2007 <b>Docket No.</b> 2007-0978-PST-E	PCW
		Pevision 2 (September 2002)
Case ID No.		PCW Revision May 25, 2007
Reg. Ent. Reference No.		
	Petroleum Storage Tank	
Enf. Coordinator		
Violation Number		1
Rule Cite(s)	30 Tex. Admin. Code § 334.8(c)(4)(A)(vi) and 334.7(d)(3)	
Violation Description	Failed to submit the required UST registration and self-certification form to the agency.	
	Base Penalty	\$10,000
>> Environmental, Property a	and Human Health Matrix Harm	
Release		
OR Actual Potential		
>>Programmatic Matrix		
Falsification	Major Moderate Minor	
	X Percent 10%	
Matrix Notes	100% of the rule requirement was not met.	e e
	Adjustment \$9,000	
		\$1,000
Violation Events		
Number of Vic	olation Events 1 27 Number of violation days	
mark only one with an x	daily monthly Violation Base Penalty Semiannual annual single event x	\$1,000
One single e	event is recommended based on documentation of the violation during the May 16, 2007 investigation.	
	oongaaran	
Economic Benefit (EB) for th	is violation Statutory Limit Test	
Estimated	d EB Amount \$3 Violation Final Penalty Total	\$1,000
	This violation Final Assessed Penalty (adjusted for limits)	\$1,000

Reg. Ent. Reference No.	Petroleum Stora	an Tonk				P 2 2 2 2 2 2 2 2 2 2 2 2 2 2 2 2 2 2 2	Years of
		ige rank				Percent Interest	Depreciation
Violation No.	. 4	1.163,000	n gwyr i'r dy gasteenig y		1. 4.1.		
				de la	14.47	5.0	15
	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
Item Description	No commas or \$		ka bili 1984				de de la company
						Security of the second security of the second secon	
Delayed Costs				0.0	\$0	\$0 I	\$0
Equipment				0.0	\$0 \$0	\$0	\$0 \$0
Buildings				0.0	\$0 \$0	\$0	\$0 \$0
Other (as needed)				0.0	\$0 \$0	\$0 \$0	\$0 \$0
Engineering/construction				0.0	\$0 \$0	n/a	\$0 \$0
Land	6400	46 May 2007	16-Jan-2008	0.0	\$3	n/a	\$3
Record Keeping System	\$100	16-May-2007	10-Jan-2006	0.0	\$0	n/a	\$0
Training/Sampling				ו ט.ט ון	ΔU	A STATE OF THE PARTY OF THE P	
				0.0	40	10 miles	<b>ድ</b> ስ
Remediation/Disposal				0.0	, \$0 #0	n/a	\$0 80
Remediation/Disposal Permit Costs Other (as needed)				0.0	\$0 \$0	n/a	\$0 \$0
Permit Costs		is the investigat	on date and the fir	0.0 0.0 ion and nal date i	\$0 \$0 self-certification for s the estimated de	n/a n/a orm to the TCEQ. The ate of compliance.	\$0 \$0 e date required
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Permit Costs Other (as needed)  Notes for DELAYED costs  Avoided Costs  Disposal		is the investigat	on date and the fir	ion and hal date intering	\$0 \$0 self-certification for is the estimated do item (except for	m/at the TCEQ. Thate of compliance.  one-time avoided c	\$0 \$0 e date required
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Permit Costs Other (as needed)  Notes for DELAYED costs Avoided Costs Disposal Personnel Inspection/Reporting/Sampling		is the investigat	on date and the fir	0.0 0.0 ion and hal date i	\$0 \$0 self-certification for s the estimated do item (except for \$0 \$0 \$0	m/a to the TCEQ. The ate of compliance.  one-time avoided compliance.	\$0 \$0 e date required osts) \$0 \$0 \$0
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Permit Costs Other (as needed)  Notes for DELAYED costs  AVOIDED COSTS Disposal Personnel Inspection/Reporting/Sampling Supplies/equipment Financial Assurance [2]		is the investigat	on date and the fir	0.0 0.0 ion and hal date intering 0.0 0.0 0.0 0.0	\$0 \$0 self-certification for s the estimated di item (except for a \$0 \$0 \$0 \$0 \$0	m/at n/at n/at n/at n/at of compliance.  pre-time avoided c so	\$0 \$0 e date required osts) \$0 \$0 \$0 \$0 \$0
Permit Costs Other (as needed)  Notes for DELAYED costs  AVOIDED COSTS Disposal Personnel Inspection/Reporting/Sampling Supplies/equipment Financial Assurance [2] ONE-TIME avoided costs [3]		is the investigat	on date and the fir	0.0 0.0 ion and hal date intering 0.0 0.0 0.0 0.0 0.0	\$0 \$0 self-certification for s the estimated do item (except for of \$0 \$0 \$0 \$0 \$0 \$0	m/a m/a m/a m/a m/a mm to the TCEQ. The ate of compliance.  pne-time avoided c \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0	\$0 \$0 e date required osts) \$0 \$0 \$0 \$0 \$0
Permit Costs Other (as needed)  Notes for DELAYED costs  AVOIDED COSTS Disposal Personnel Inspection/Reporting/Sampling Supplies/equipment Financial Assurance [2]		is the investigat	on date and the fir	0.0 0.0 ion and hal date intering 0.0 0.0 0.0 0.0	\$0 \$0 self-certification for s the estimated di item (except for a \$0 \$0 \$0 \$0 \$0	m/at n/at n/at n/at n/at of compliance.  pre-time avoided c so	\$0 \$0 e date required osts) \$0 \$0 \$0 \$0 \$0
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Permit Costs Other (as needed)  Notes for DELAYED costs  AVOIDED COSTS Disposal Personnel Inspection/Reporting/Sampling Supplies/equipment Financial Assurance [2] ONE-TIME avoided costs [3]		is the investigat	on date and the fir	0.0 0.0 ion and hal date intering 0.0 0.0 0.0 0.0 0.0	\$0 \$0 self-certification for s the estimated do item (except for of \$0 \$0 \$0 \$0 \$0 \$0	m/a m/a m/a m/a m/a mm to the TCEQ. The ate of compliance.  pne-time avoided c \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0	\$0 \$0 e date required osts) \$0 \$0 \$0 \$0 \$0

Screening Date	12-Jun-2007 <b>Docket No.</b> 2007-0978-PST-E	PCW
	the contract of the contract o	olicy Revision 2 (September 2002)
Case ID No.	33879	PCW Revision May 25, 2007
Reg. Ent. Reference No.	RN101880219	
Media [Statute]	Petroleum Storage Tank	
Enf. Coordinator	Philip DeFrancesco	
Violation Number	5	
Rule Cite(s)	30 Tex. Admin. Code § 334.8(c)(5)(A)(i) and Tex. Water Code § 26.3467(a)	
Violation Description	Failed to make available to a common carrier a valid, current TCEQ delivery certific before accepting delivery of a regulated substance into the USTs. Specifically, reviet the Facility's fuel delivery invoice indicated that the Facility had received three delivery of a regulated substance without a delivery certificate.	ew of eries
	Base Per	nalty \$10,000
>> Environmental, Property a		T .
OR Release OR Actual Potential		
>>Programmatic Matrix '		
Falsification	Major Moderate Minor	
	Percent 0%	
		<del></del>
	th or the environment will or could be exposed to insignificant amounts of pollutants w sceed levels that are protective of human health or environmental receptors as a resu the violation.	
	Adjustment \$9	,500
		- \$500
Violation Events		The state of the s
Number of Vi	olation Events 3 27 Number of violation days	·
Trainibel of vi	daily monthly	
mark only one with an x	quarterly Violation Base Per semiannual annual single event x	\$1,500
Three single	events are recommended for accepting three fuel deliveries without a delivery certific	ate.
Economic Benefit (EB) for th	is violation Statutory Limit Test	
Estimate	d EB Amount \$108 Violation Final Penalty T	otal \$1,500
	This violation Final Assessed Penalty (adjusted for lin	nits) \$1,500

	Petroleum Stor					Name and Address of the Party o	
		age Tank				Percent Interest	Years of
Violation No.	. 5	e inggeriere gerogen in elektro	Market Committee Committee	ger in serie	rs a digues como contra i l'escuent	,	Depreciation
	. 7					5.0	15
성경 프로그램 경기를 받는다.	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
Item Description	No commas or \$			£325.			
						*** *** * * * * * * * * * * * * * * * *	
Delayed Costs	<u> </u>	<u> </u>	<u>Character</u>	*** 1.5		1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1	
Equipment				0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0
Engineering/construction				0.0	\$0	\$0	\$0
Land				0.0	\$0	in/a	\$0
Record Keeping System				0.0	\$0	n/a	\$0
Training/Sampling				0.0	\$0	n/a	\$0
Remediation/Disposal				0.0	\$0	n/a	\$0
Permit Costs				0.0	\$0	Mr. n/a // L	\$0
Other (as needed)				0.0	\$0	n/a	\$0
	İ						
Notes for DELAYED costs							
Notes for DELATED Costs			1				
Avoided Costs	ANN	UALIZE [1] avoid	led costs before e			one-time avoided c	
Disposal		<u></u>		0.0	\$0	\$0	\$0
Personnel				0.0	\$0	\$0	\$0
Inspection/Reporting/Sampling		1."		0.0	\$0	\$0	\$0
Supplies/equipment				0.0	\$0	\$0	\$0
Financial Assurance [2]				0.0	\$0	\$0	\$0
	11			0.0	\$0	\$0	\$0
ONE-TIME avoided costs [3]				1.6	l \$8	\$100	\$108
	\$100	16-May-2007	16-Jan-2008	1.0	ΨΟ	₩100 I	
ONE-TIME avoided costs [3]							
ONE-TIME avoided costs [3]			delivery certificate	e. The da		nvestigation date an	

# Compliance History

Customer/Respondent/Owner-Operator:	CN601025018	James J Flanagan Shippi James J Flanagan Steve		Classification: AVERAGE BY DEFAULT	Rating: 3.01
Regulated Entity:	RN101880219	JAMES J FLANAGAN STEVEDORES		Classification: AVERAGE BY DEFAULT	Site Rating: 3.0
ID Number(s):	PETROLEUM S' REGISTRATION		REGISTRA		48086
Location:	1111 E NAVIGA	TION BLVD, HOUSTON, TX	(, 77012	Rating Date: September 01 NO	06 Repeat Violato
TCEQ Region:	REGION 12 - HC	USTON			•
Date Compliance History Prepared:	May 22, 2007				
Agency Decision Requiring Compliance Histo	ry: Information Requ	est	•		
Compliance Period:	September 01, 2	001 to August 31, 2006		······································	
TCEQ Staff Member to Contact for Additional Name:  NA		ng this Compliance History one: N/A			·
•	Site Co	mpliance History Com	onents		
1. Has the site been in existence and/or opera	ation for the full five	ear compliance period?	Yes		
2. Has there been a (known) change in owner	rship of the site durir	g the compliance period?	No	•	
3. If Yes, who is the current owner?			N/A		
4. if Yes, who was/were the prior owner(s)?			N/A		
5. When did the change(s) in ownership occur	ur?		N/A		<u>.</u>
Components (Multimedia) for the Site	:				
A. Final Enforcement Orders, court jud		ent decrees of the state of	Texas and the	federal government.	•
N/A					
		,			•
B. Any criminal convictions of the stat	e of Texas and the fo	ederai government.			
N/A C. Chronic excessive emissions event	te				
		,			
N/A  D. The approval dates of investigation	e (CCEDS Inv. Trad	k No \	•		•
D. The approval dates of investigation	is. (OOLDO IIIV., ITAC		•		
E. Written notices of violations (NOV)	. (CCEDS Inv. Track	. No.)			
E. William Hollood of Violations (1707)		•	*		
F. Environmental audits.		•			•
G. Type of environmental management	nt systems (EMSs).				
N/A					
H. Voluntary on-site compliance asse	ssment dates.			•	
N/A					
Participation in a voluntary pollution	n reduction program.		•		
N/A				•	
J. Early compliance.					
N/A	>		•		•
Sites Outside of Texas		•			
N/A		•			

## TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



IN THE MATTER OF AN	§	BEFORE THE
ENFORCEMENT ACTION	§	
CONCERNING JAMES J.	§	TEXAS COMMISSION ON
FLANAGAN SHIPPING	§	
CORPORATION DBA JAMES J.	§	ENVIRONMENTAL QUALITY
FLANAGAN STEVEDORES;	§	
RN101880219	§	

### AGREED ORDER DOCKET NO. 2007-0978-PST-E

#### I. JURISDICTION AND STIPULATIONS

At its \_\_\_\_\_\_ agenda, the Texas Commission on Environmental Quality ("Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding James J. Flanagan Shipping Corporation dba James J. Flanagan Stevedores ("James J. Flanagan Stevedores") under the authority of Tex. WATER CODE chs. 7 and 26. The Executive Director of the TCEQ, represented by the Litigation Division, and James J. Flanagan Stevedores, represented by James M. Davin of the law firm of Julian & Seele, P.C., appear before the Commission and together stipulate that:

- 1. James J. Flanagan Stevedores operates a shipping corporation located at 1111 E. Navigation Blvd., Houston, Harris County, Texas (the "Facility").
- 2. This Agreed Order is entered into pursuant to Tex. Water Code §§ 7.051 and 7.070. The Commission has jurisdiction of this matter pursuant to Tex. Water Code § 5.013 because it alleges violations of Tex. Water Code ch. 26 and TCEQ rules.
- 3. The Commission and James J. Flanagan Stevedores agree that the Commission has jurisdiction to enter this Agreed Order, and that James J. Flanagan Stevedores is subject to the Commission's jurisdiction.
- 4. James J. Flanagan Stevedores received notice of the violations alleged in Section II ("Allegations") on or about August 25, 2007.

- 5. The occurrence of any violation is in dispute and the entry of this Agreed Order shall not constitute an admission by James J. Flanagan Stevedores of any violation alleged in Section II ("Allegations"), nor of any statute or rule.
- An administrative penalty in the amount of eight thousand dollars (\$8,000.00) is assessed by 6. the Commission in settlement of the violations alleged in Section II ("Allegations"). James J. Flanagan Stevedores paid four hundred ten dollars (\$410.00) of the administrative penalty. The remaining amount of seven thousand five hundred ninety dollars (\$7,590.00) of the administrative penalty shall be payable in 23 monthly payments of three hundred thirty dollars (\$330.00) each, pursuant to 30 Tex. Admin. Code § 70.9(a). The first monthly payment shall be paid within 30 days after the effective date of this Agreed Order. The subsequent payments shall be paid not later than 30 days following the due date of the previous payment. If James J. Flanagan Stevedores fails to timely and satisfactorily comply with the payment requirements of this Agreed Order, including the payment schedule, the Executive Director may, at his option, accelerate the maturity of the remaining installments. in which event the unpaid balance shall become immediately due and payable without demand or notice. In addition, James J. Flanagan Stevedores' failure to meet the payment schedule of this Agreed Order constitutes the failure by James J. Flanagan Stevedores to timely and satisfactorily comply with all of the terms of this Agreed Order
- 7. Any notice and procedures which might otherwise be authorized or required in this action are waived in the interest of a more timely resolution of the matter.
- 8. The Executive Director of the TCEQ and James J. Flanagan Stevedores agreed on a settlement of the matters alleged in this enforcement action, subject to the approval of the Commission.
- 9. The Executive Director may, without further notice or hearing, refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings if the Executive Director determines that James J. Flanagan Stevedores has not complied with one or more of the terms or conditions in this Agreed Order.
- 10. This Agreed Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Agreed Order, whichever is later.
- 11. The provisions of this Agreed Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Agreed Order unenforceable, the remaining provisions shall be valid and enforceable.

#### II. ALLEGATIONS

During an investigation conducted on May 16, 2007, a TCEQ Houston Regional Office investigator documented that James J. Flanagan Stevedores violated:

- a. 30 Tex. Admin. Code § 334.50(a)(1)(A) and Tex. Water Code § 26.3475(c)(1), by failing to provide a method of release detection capable of detecting a release from any portion of the UST system which contained regulated substances.
- b. 30 Tex. Addin. Code § 37.815(a) and (b), by failing to demonstrate acceptable financial assurance for taking corrective action and for compensating third parties for bodily injury and property damage caused by accidental releases arising from the operation of petroleum USTs.
- c. 30 Tex. Admin. Code § 334.10(b), by failing to have the UST records maintained, readily accessible, and make them immediately available for inspection upon request by agency personnel.
- d. 30 Tex. ADMIN. CODE §§ 334.8(c)(4)(A)(vi) and 334.7(d)(3), by failing to submit the required UST registration and self-certification form to the agency.
- e. 30 Tex. Admin. Code § 334.8(c)(5)(A)(i) and Tex. Water Code § 26.3467(a), by failing to make available to a common carrier a valid, current TCEQ delivery certificate before accepting delivery of a regulated substance into the USTs.

#### III. DENIALS

James J. Flanagan Stevedores generally denies each allegation in Section II ("Allegations").

#### IV. ORDERING PROVISIONS

1. It is, therefore, ordered by the TCEQ that James J. Flanagan Stevedores pay an administrative penalty as set forth in Section I, Paragraph 6 above. The payment of this administrative penalty and James J. Flanagan Stevedores' compliance with all the terms and conditions set forth in this Agreed Order resolve only the allegations in Section II. The Commission shall not be constrained in any manner from considering or requiring corrective action or penalties for violations which are not raised here. Administrative penalty payments shall be made payable to "Texas Commission on Environmental Quality" and shall be sent with the notation "Re: James J. Flanagan Shipping Corporation dba James J. Flanagan Stevedores, Docket No. 2007-0978-PST-E" to:

Financial Administration Division, Revenues Section Attention: Cashier's Office, MC 214 Texas Commission on Environmental Quality P.O. Box 13088 Austin, Texas 78711-3088

- 2. James J. Flanagan Stevedores shall undertake the following technical requirements:
  - a. Immediately upon the effective date of this Agreed Order, James J. Flanagan Stevedores shall cease accepting fuel until such time as a valid delivery certificate is obtained from the TCEQ, in accordance with 30 Tex. ADMIN. CODE § 334.8;
  - b. Within 30 days after the effective date of this Agreed Order, James J. Flanagan Stevedores shall:
    - i. install and implement a release detection method for the USTs, in accordance with 30 Tex. ADMIN. CODE § 334.50;
    - ii. obtain acceptable financial assurance for taking corrective action and for compensating third parties for both bodily injury and property damage caused by accidental releases arising from the operation of petroleum USTs, in accordance with 30 Tex. ADMIN. CODE § 37.815(a) and (b); and
    - iii. begin maintaining all UST records, in accordance with 30 Tex. ADMIN. CODE § 334.10.
  - c. Within 45 days after the effective date of this Order, James J. Flanagan Stevedores shall submit written certification and detailed supporting documentation, including photographs, receipts, and other records, to demonstrate compliance with Ordering Provision Nos. 2.a. through 2.b.iii. The certification shall be notarized by a State of Texas Notary Public and include the following certification language:

"I certify under penalty of law that I have personally examined and am familiar with the information submitted and all attached documents, and that based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the submitted information is true, accurate and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations."

James J. Flanagan Stevedores shall submit the written certification and copies of documentation necessary to demonstrate compliance with Ordering Provision Nos. 2.a. through 2.b.iii. to:

Order Compliance Team
Enforcement Division, MC 149A
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

and

Nicole Bealle, Waste Section Manager Houston Regional Office Texas Commission on Environmental Quality 5425 Polk Avenue, Suite H Houston, Texas 77023-1486

- 3. The provisions of this Agreed Order shall apply to and be binding upon James J. Flanagan Stevedores. James J. Flanagan Stevedores is ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the Facility operations referenced in this Agreed Order.
- 4. If James J. Flanagan Stevedores fails to comply with any of the Ordering Provisions in this Agreed Order within the prescribed schedules, and that failure is caused solely by an act of God, war, strike, riot, or other catastrophe, James J. Flanagan Stevedores' failure to comply is not a violation of this Agreed Order. James J. Flanagan Stevedores shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. James J. Flanagan Stevedores shall notify the Executive Director within seven days after James J. Flanagan Stevedores becomes aware of a delaying event and shall take all reasonable measures to mitigate and minimize any delay.
- 5. The Executive Director may grant an extension of any deadline in this Agreed Order or in any plan, report, or other document submitted pursuant to this Agreed Order, upon a written and substantiated showing of good cause. All requests for extensions by James J. Flanagan Stevedores shall be made in writing to the Executive Director. Extensions are not effective until James J. Flanagan Stevedores receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.

- 6. This Agreed Order, issued by the Commission, shall not be admissible against James J. Flanagan Stevedores in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Agreed Order; or (2) pursue violations of a statute within the Commission's jurisdiction, or of a rule adopted or an order or permit issued by the Commission under such a statute.
- 7. This Agreed Order may be executed in multiple counterparts, which together shall constitute a single original instrument. Any executed signature page to this Agreed Order may be transmitted by facsimile transmission to the other parties, which shall constitute an original signature for all purposes.
- 8. Under 30 Tex. Admin. Code § 70.10(b) and Tex. Gov't Code § 2001.142, the effective date of this Agreed Order is the date of hand-delivery of the Order to James J. Flanagan Stevedores, or three days after the date on which the Commission mails notice of the Order to James J. Flanagan Stevedores, whichever is earlier. The Chief Clerk shall provide a copy of this Agreed Order to each of the parties.

James J. Flansgan Shipping Corporation the James J. Flansgan Stevedores Docket No. 2017-1976-PST-E

## SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission

Page 7

THE THIMS THE THE SEC DOIL

For the Executive Director

6/5/2009

Date

I, the undersigned, have read and understand the anached Agreed Order. I represent that I am authorized to agree to the attached Agreed Order on behalf of the entity, if any, indicated below my signature, and I do agree to the terms and conditions specified therein. I further acknowledge that the TCEQ, in accepting payment for the penalty amount, is materially relying on such representation.

I also understand that my failure to comply with the Ordering Provisions, if any, in this order end/or my failure to timely pay the penalty amount, may result in:

- A negative impact on James J. Flanagen Stevatores' compliance history;
- Greater scrutiny of any permit applications submitted by James J. Flanagen Stevedores;
- Referral of this case to the Atterney General's office for contempt, injunctive relief,
   additional penalties, and/or atterney fees, or to a collection agency;
- Increased penalties in any future enforcement actions against James J. Flunagan Stevedores;
- Automatic referral to the Attorney General's Office of any future enforcement actions against
  James J. Flanagen Stevedones; and
- ICEO seeking other relief as authorized by law.

In addition, any falsification of any compliance documents may result in crimical prosecution.

Signature

Date

Name (Printed or typed)

Authorized representative of

James J. Flansgan Shipping Corporation

dha James J. Flanagan Stevedores

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